



State of New Hampshire  
DEPARTMENT OF ENVIRONMENTAL SERVICES

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095  
(603) 271-3503 FAX (603) 271-2867



June 5, 2003

Thompson Center Arms Company, Inc  
Attn: Robert Gustafson  
PO Box 5002, Farmington Road  
Rochester, NH 03867

Re: Docket No. AF 03-016 - Administrative Fine by Consent Agreement

Dear Mr. Gustafson:

Enclosed for your records is a copy of the Administrative Fine by Consent Agreement in this matter executed by Philip J. O'Brien, Ph.D., Director, Waste Management Division and accepted by Commissioner Michael P. Nolin on June 6, 2003. On behalf of the Department of Environmental Services, thank you for your cooperation in resolving this matter.

Sincerely,

**COPY**  
Michael Delauni,  
Legal Assistant

cc: Philip J. O'Brien, Ph.D., Director, Waste Management Division  
Gretchen Rule, DES Legal Unit  
Susan Weiss Alexant, Hearings and Rules Attorney  
Mark R. Harbaugh, DES Legal Unit  
Linda Birmingham DES HW



State of New Hampshire  
DEPARTMENT OF ENVIRONMENTAL SERVICES

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095  
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Thompson Center Arms Company, Inc.  
P.O. Box 5002, Farmington Road  
Rochester, NH 03867

**ADMINISTRATIVE FINE  
BY CONSENT**

**No. AF 03-016**

**I. INTRODUCTION**

This Administrative Fine by Consent is entered into by and between the Department of Environmental Services, Waste Management Division, and Thompson Center Arms Company, Inc., pursuant to RSA 147-A:17-a. This Administrative Fine by Consent ("Agreement") is effective upon signature by all parties.

**II. PARTIES**

1. The Department of Environmental Services, Waste Management Division ("DES"), is a duly constituted administrative agency of the State of New Hampshire, having its main office at 6 Hazen Drive, Concord, NH.
2. Thompson Center Arms Company, Inc. ("Thompson") is a New Hampshire corporation that registered with the New Hampshire Secretary of State's Office on June 8, 1989. Thompson has a mailing address of P.O. Box 5002, Farmington Road, Rochester, NH.

**III. BACKGROUND**

1. Pursuant to RSA 147-A, DES regulates the management and disposal of hazardous waste. Pursuant to RSA 147-A:3, the Commissioner of DES has adopted Env-Wm 100-1100 ("Hazardous Waste Rules") to implement this program.
2. Pursuant to RSA 147-A:17-a, the Commissioner is authorized to impose fines of up to \$2,000 per violation for violations of RSA 147-A or rules adopted pursuant thereto. Pursuant to this section, the Commissioner has adopted Env-C 612 to establish the schedule of fines for such violations.
3. Thompson is a hazardous waste generator that notified the United States Environmental Protection Agency ("EPA") of its activities through DES on August 15, 1980. EPA Identification Number NHD002059525 was assigned to Thompson's site located at Farmington Road, Rochester, NH.

4. On February 22 & 25, 2002, DES personnel inspected Thompson for compliance with RSA 147-A and its implementing regulations, the Hazardous Waste Rules. As a result of the violations of the Hazardous Waste Rules observed during this inspection, DES issued Letter of Deficiency No. WMD 02-014 ("LOD") to Thompson dated April 9, 2002 and an Amendment to the LOD dated December 30, 2002. Based on the violations observed during the inspection listed above, DES believes that an administrative fine is appropriate in this case for the Class I violation.

#### IV. ALLEGATIONS, ADMINISTRATIVE FINES

1. Specifically, as stated in the LOD, Thompson failed to conduct adequate hazardous waste determinations on six (6) waste streams, (*i.e.*, Muriatic Acid Waste; Oxalic acid/water mixture; Blueing/Black Oxide rinse water; Kolene (Caustic) process rinse water; NaOH Caustic Cake; Waste Mineral Spirits), as required by Env-Wm 502.01 ("Violation 1"). Env-C 612.05(a) authorizes a fine of \$1,500 per determination, for a potential fine of \$9,000.
2. Specifically, as stated in the LOD, Thompson failed to cover and provide security measures for two (2) 55-gallon containers of hazardous waste "Lead with Sand" stored outside as required by Env-Wm 507.01(e) & 509.02(c) - storage requirements ("Violation 2"). Env-C 612.07(i) authorizes a fine of \$1,750 per area.
3. Specifically, as stated in the LOD, Thompson failed to have twenty-eight (28) containers with labels that were not hidden by a wall or other containers as required by Env-Wm 507.03(a)(2) ("Violation 3"). Env-C 612.06(m) authorizes a fine of \$100 per container whose label is not visible, for a potential fine of \$2,800.
4. Specifically, as stated in the LOD, Thompson failed to perform annual hazardous waste training for the following employees with hazardous waste management duties, as required by Env-Wm 509.02(a)(2): in 2001 and 2002 no annual update training for one (1) person (Secondary Emergency Coordinator) and no initial training for one (1) employee responsible for conducting weekly hazardous waste container inspections ("Violation 4"). Env-C 612.07(b) authorizes a fine of \$1,750 per individual not trained for initial training and \$1,000 per individual not trained for annual updates, for a potential fine of \$3,750.
5. Specifically, as stated in the LOD, Thompson failed to have adequate aisle space for containers of hazardous waste located in the "Hazardous Waste Storage Area", as required by Env-Wm 509.02(a)(4) ("Violation 5"). Env-C 612.07(d) authorizes a fine of \$1,250 per requirement not met per storage area.
6. Specifically, as stated in the LOD, Thompson failed to maintain an adequate contingency plan on-site, as required by Env-Wm 509.02(a)(5) ("Violation 6"). Env-C 612.07(e) authorizes a fine of \$2,000.

7. Specifically, as stated in the LOD, Thompson failed to post complete emergency postings at the nearest telephone to the hazardous waste storage area, as required by Env-Wm 509.02(b) ("Violation 7"). Env-C 612.07(h) authorizes a fine of \$1,000 per area.
8. Specifically, as stated in the LOD, Thompson failed to close two (2) 55-gallon satellite accumulation containers of "Lead with Sand" located outside the Gun Division Building and one (1) 55-gallon satellite accumulation container of "NaOH" Caustic Cake" located at the Kolene process, as required by Env-Wm 509.03(d) ("Violation 8"). Env-C 612.07(j) authorizes a fine of \$1,000 per satellite storage area, for a potential fine of \$2,000.
9. Specifically, as stated in the LOD, Thompson failed to mark one (1) 55-gallon container of hazardous waste "NaOH Caustic Cake" located adjacent to the Kolene process with the date of accumulation, as required by Env-Wm 509.03(i)(1)a. ("Violation 9"). Env-C 612.07(j) authorizes a fine of \$1,000 per satellite storage area. The potential fine for this violation is included in the fine sought in Paragraph 8 because the violation occurred in the same satellite storage area.
10. Specifically, as stated in the LOD, Thompson failed to move two (2) 55-gallon satellite accumulation containers located immediately outside the Gun Division Building within 3-days of reaching the accumulation limits as required by Env-Wm 509.03(i)(2) ("Violation 10"). Env-C 612.07(j) authorizes a fine of \$1,000 per satellite storage area. The potential fine for this violation is included in the fine sought in Paragraph 8 because the violation occurred in the same satellite storage area.
11. Specifically, as stated in the Amendment to the LOD, Thompson failed to obtain a permit for the operation of a Wastewater Treatment Unit (WWTU), which is a hazardous waste facility because it treats influent waste waters that are hazardous waste as defined in Env-Wm 400 (*i.e.*, corrosive and toxicity characteristic), as required by RSA 147-A:4, I/Env-Wm 353.04 ("Violation 11"). Env-C 612.03(a) authorizes a fine of \$2,000 per treatment or storage unit.

#### **V. PAYMENT, WAIVER OF HEARING**

1. DES agrees to waive fines associated with Violations 1 through 10 because they are not Class I violations.
2. Thompson agrees to pay \$2,000 for Violation 11, which is a Class I violation.
3. Payment under Section V. Paragraph 2 shall be paid by certified check made payable to: "Treasurer, State of New Hampshire" and shall be mailed to:

DES Legal Unit  
Attn: Michael Sciafani, Legal Assistant  
PO Box 95  
Concord, New Hampshire 03302-0095

4. If any payment is made by check or money order that is returned due to insufficient funds, pursuant to NH RSA 6:11-a, DES may charge a fee in the amount of 5% of the face amount of the check or money order or \$25.00, whichever is greater, plus all protest and bank fees, in addition to the amount of the check or money order, to cover the costs of collection.
5. By executing this Agreement, Thompson waives its right to a hearing on or any appeal of the administrative fines identified in Section IV. Paragraphs 1 through 11, and agrees that this Agreement may be entered into and enforced by a court of competent jurisdiction.
6. The effective date of this Agreement will be the date on which it is signed by an authorized representative of Thompson, and the Director of the Waste Management Division, and the Commissioner of DES.
7. No failure by DES to enforce any provision of this Agreement after any breach or default will be deemed as a waiver of its rights with regard to that breach or default, nor will such failures be construed as a waiver of the right to enforce each and all provisions of this Agreement on any further breach or default.

**THOMPSON CENTER ARMS COMPANY, INC.**

**COPY**  
By: Robert Gustafson  
Duly Authorized

5/20/03  
Date

**DEPARTMENT OF ENVIRONMENTAL SERVICES**

**COPY**  
Philip J. O'Brien, Ph.D., P.G.  
Director  
Waste Management Division

5/27/03  
Date

**COPY**  
Michael P. Nolin  
Michael P. Nolin Commissioner

06 05 03  
Date